

ISSUE BRIEF 07-27

States, Advocacy Groups Seek Changes in New TANF Regs

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Executive Summary

Organizations representing states as well as a number of social welfare advocacy groups are speaking out about their concerns regarding the Temporary Aid to Needy Families (TANF) Interim Final Regulations. Promulgated by the Department of Health and Human Services (HHS) as required under the Deficit Reduction Act of 2005 (DRA), states and advocacy groups maintain that changes in the program reduce flexibility and increase the burden on individuals and states. They are specifically concerned that the new rules are making it more difficult for states to meet federal work participation requirements. State and advocacy groups are hopeful that a new Congress will lend a more empathetic ear, resulting in an opportunity to repeal some of the TANF provisions put in place by the previous Congress.

Background

In January 2006, after years of debate and continuing resolutions, Congress reauthorized and funded the TANF program through 2010, as part of the DRA. Under the DRA, changes were made in the TANF program primarily to increase HHS oversight with regard to work participation of TANF recipients and tighten up state accountability (see *Issue Brief 06-30*). The DRA requires that HHS draft regulations that more narrowly define work activities for TANF recipients that must be countable toward one of the federally listed work activities. HHS was also required to establish uniform reporting and verification requirements for program participation. The Interim Final Rule was published in June 2006 and went into effect October 1, 2006.

Restore State Flexibility

Remove separate rule for two-parent families. One concern for states that was not addressed in the reauthorization bill is the requirement that 90% of two-parent families within a state's caseload must be working, a much higher requisite than the 50% requirement for families headed by single parents. This is a "technical" fix that states and advocacy groups are encouraging Congress to change. They argue that two-parent families on welfare are often families with multiple barriers to self-sufficiency and therefore may need more time or services before finding employment.

Amend work activity definitions. As stipulated under the community service definitions in the new regulations, individuals can participate in job readiness programs to address such issues as substance abuse and mental health problems which are barriers to employment. However, there is now a limit on how many hours of this type of activity can be counted as a work activity and services are limited to six weeks. The states recommend that job-readiness activities be counted as a work activity and they be allowed to continue as needed, as some families may take longer to get to a point of employability due to barriers such as substance abuse or mental health issues.

Loosen Education Requirements. The new regulations impose limitations on education and training programs, such as post-secondary education and English as a Second Language programs. States are no longer allowed to

count recipients in such programs as participating in a countable work activity. Because many states have had success in placing eligible recipients in such post-education programs that allow them access to higher-paying jobs, they would like to be able to continue to provide this option.

Moreover, basic education training is limited to on-the-job and vocational training under the new rules, making it difficult for states to offer education training as a stand-alone program or in combination with other work activities. States would like to see basic education programs be made available to all recipients with participation in them counting as a work activity.

Resolve conflict with the Americans with Disabilities Act (ADA). As reported by states, making work-related accommodations for the disabled as required under the ADA is often at odds with states meeting the new participation rate requirements. States run the risk of facing financial penalties if they comply with ADA regulations and receive no credit for the work effort of disabled recipients if those recipients are unable to participate for the full number of required hours. States support developing work activities tailored to the needs of those whose disability falls under the ADA, that could also be counted toward meeting the state participation requirement under TANF. Another possibility would be for states to have the option on a case-by-case basis to exclude those adults from the work participation rate who have been determined to be disabled or are awaiting Social Security Insurance determination.

Delay implementation of state penalties. States and advocacy groups urge the delay of the date when states must have in place their work verification plan, designed to validate work data (see *Issue Brief 06-04*). If the plan is not operational by September 30 2007, HHS can impose financial penalties. States stress that more time is needed to consider changes in their own programs and statutes to meet compliance. Many changes in state law require legislative action and with the August 2006 release date of the Interim Rule, some states were unable to make these types of changes in time. The states would like to see a one-year delay date for the implementation of this requirement once the final regulations are published.

Next Steps

Congress may consider making changes through the reauthorization of the State Child Health Insurance Program (SCHIP) program, which is scheduled for the end of September. The Final Rule is expected to be published in *The Federal Register* in September 2007.

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